

## Department of Energy

## § 710.10

interview or actions, may authorize the granting of the individual's access authorization. If, in the opinion of the Local Director of Security, the question as to the individual's access authorization eligibility has not been favorably resolved, he shall submit the matter to the Manager with a recommendation that authority be obtained to process the individual's case under administrative review procedures.

(c) If the Manager agrees that unresolved derogatory information is present and that appropriate attempts to resolve such derogatory information have been unsuccessful, he shall notify the Director, Office of Personnel Security, DOE Headquarters, of his proposal to conduct an administrative review proceeding, accompanied by an explanation of the security concerns and a duplicate Personnel Security File. If the Manager believes that the derogatory information has been favorably resolved, he shall direct that access authorization be granted for the individual. The Manager may also direct the Local Director of Security to obtain additional information in the matter prior to deciding whether to grant the individual access authorization or to submit a request for authority to conduct an administrative review proceeding. A decision in the matter shall be rendered by the Manager within 10 calendar days of its receipt.

(d) Upon receipt of the Manager's notification, the Director, Office of Personnel Security, shall review the matter and confer with the Manager on:

(1) The institution of administrative review proceedings set forth in §§ 710.20 through 710.32;

(2) The granting of access authorization; or

(3) Other actions as the Director deems appropriate.

(e) The Director, Office of Personnel Security, shall act pursuant to one of these options within 30 calendar days of the receipt of the Manager's notification unless an extension is granted by the Principal Deputy Chief for Mission Support Operations, Office of Health, Safety and Security.

[66 FR 47063, Sept. 11, 2001, as amended at 71 FR 68730, Nov. 28, 2006]

### § 710.10 Suspension of access authorization.

(a) If information is received that raises a question concerning an individual's continued access authorization eligibility, the Local Director of Security shall authorize action(s), to be taken on an expedited basis, to resolve the question pursuant to § 710.9(b). If the question as to the individual's continued access authorization eligibility is not resolved in favor of the individual, the Local Director of Security shall submit the matter to the Manager with a recommendation that the individual's access authorization be suspended pending the final determination resulting from the procedures in this subpart.

(b) Within two working days of receipt of the recommendation from the Local Director of Security to suspend the individual's DOE access authorization, the Manager shall review the matter and authorize continuation or suspension of access authorization. The access authorization of an individual shall not be suspended except by the direction of the Manager. This authority to suspend access authorization may not be delegated but may be exercised by a person who has been designated in writing as Acting Manager.

(c) Upon suspension of an individual's access authorization pursuant to paragraph (b) of this section, the individual, the individual's employer, any other DOE Operations Office having an access authorization interest in the individual, and, if known, any other government agency where the individual holds an access authorization, security clearance, or access approval, or to which the DOE has certified the individual's DOE access authorization, shall be notified immediately. The Central Personnel Clearance Index shall also be updated. Notification to the individual shall be made in writing and shall reflect, in general terms, the reason(s) why the suspension has been effected. Pending final determination of the individual's eligibility for access authorization from the operation of the procedures provided in this subpart, the individual shall not be afforded access to classified matter, special nuclear material, or unescorted access to

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security areas that require the individual to possess a DOE access authorization.

(d) Following the decision to suspend an individual's DOE access authorization, the Manager shall immediately notify the Director, Office of Personnel Security, DOE Headquarters, of the action and the reason(s) therefore. In addition, the Manager, within 10 calendar days of the date of suspension, shall notify the Director of his proposal to conduct an administrative review proceeding, accompanied by an explanation of its basis and a duplicate Personnel Security File.

(e) Upon receipt of the Manager's notification, the Director, Office of Personnel Security, shall review the matter and confer with the Manager on:

(1) The institution of administrative review procedures set forth in §§ 710.20 through 710.32;

(2) The reinstatement of access authorization; or

(3) Other actions as the Director deems appropriate.

(f) The Director, Office of Personnel Security, shall act pursuant to one of these options within 30 calendar days of the receipt of the Manager's notification unless an extension is granted by the Principal Deputy Chief for Mission Support Operations, Office of Health, Safety and Security.

[59 FR 35185, July 8, 1994, as amended at 66 FR 47064, Sept. 11, 2001; 71 FR 68730, Nov. 28, 2006]

### ADMINISTRATIVE REVIEW

#### § 710.20 Purpose of administrative review.

These procedures establish methods for the conduct of the administrative review of questions concerning an individual's eligibility for access authorization when it is determined that such questions cannot be favorably resolved by interview or other action.

#### § 710.21 Notice to the individual.

(a) Unless an extension is authorized by the Director, Office of Personnel Security, DOE Headquarters, within 30 calendar days of receipt of authority to institute administrative review procedures, the Manager shall prepare and deliver to the individual a notification

letter approved by the local Office of Chief Counsel, or the Office of General Counsel for Headquarters cases. Where practicable, the letter shall be delivered to the individual in person.

(b) The letter shall state:

(1) That reliable information in the possession of DOE has created a substantial doubt concerning the individual's eligibility for access authorization.

(2) The information which creates a substantial doubt regarding the individual's access authorization eligibility (which shall be as comprehensive and detailed as the national security permits) and why that information creates such doubt.

(3) That the individual has the option to have the substantial doubt regarding eligibility for access authorization resolved in one of two ways:

(i) By the Manager, without a hearing, on the basis of the existing information in the case;

(ii) By personal appearance before a Hearing Officer (a "hearing").

(4) That, if the individual desires a hearing, the individual must, within 20 calendar days of the date of receipt of the notification letter, indicate this in writing to the Manager from whom the letter was received.

(5) That the individual may also file with the Manager the individual's written answer to the reported information which raises the question of the individual's eligibility for access authorization, and that, if the individual requests a hearing without filing a written answer, the request shall be deemed a general denial of all of the reported information.

(6) That, if the individual so requests, a hearing will be scheduled before a Hearing Officer, with due regard for the convenience and necessity of the parties or their representatives, for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization;

(7) That, if a hearing is requested, the individual will have the right to appear personally before a Hearing Officer; to present evidence in his own behalf, through witnesses, or by documents, or both; and, subject to the limitations set forth in § 710.26(g), to be present